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Patent

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Cai, et al.

Serial No. : 10/577,587 Case No.: 21499P Art Unit: 1625

Filed : April 27, 2006

For : PROCESS FOR THE PREPARATION OF CCR-2  
ANTAGONIST

Examiner: Niloofar Rahmani

Commissioner for Patents  
Alexandria, Virginia 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT/PRELIMINARY AMENDMENT

Sir:

In response to the Restriction Requirement dated August 13, 2007, the applicants make the elections provide herein, without traverse. The elections begin on page 2 of this response.

Claim amendments are presented on page 3.

Remarks begin on page 6.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on the date appearing below.

MERCK &amp; CO., INC.

By Chit Rana Date 9-13-2007

### **RESTRICTION REQUIREMENT**

Group II, comprising Claims 2 and 3 is elected without traverse. Claim 2 is directed to a process for preparing ((1R,3S)-3-isopropyl-3-{[3-(trifluoromethyl)-7,8-dihydro-1,6-naphthyridin-6(5H)-yl]carbonyl}cyclopentyl)[(3S,4S)-3-methoxytetrahydro-2H-pyran-4-yl]amine. Claim 3 is directed to a process for preparing ((1R,3S)-3-isopropyl-3-{[3-(trifluoromethyl)-7,8-dihydro-1,6-naphthyridin-6(5H)-yl]carbonyl}cyclopentyl)[(3S,4S)-3-methoxytetrahydro-2H-pyran-4-yl]amine succinate salt. Claim 3 is the same as Claim 2 but has the additional step (5), in which ((1R,3S)-3-isopropyl-3-{[3-(trifluoromethyl)-7,8-dihydro-1,6-naphthyridin-6(5H)-yl]carbonyl}cyclopentyl)[(3S,4S)-3-methoxytetrahydro-2H-pyran-4-yl]amine is contacted with succinic acid to make ((1R,3S)-3-isopropyl-3-{[3-(trifluoromethyl)-7,8-dihydro-1,6-naphthyridin-6(5H)-yl]carbonyl}cyclopentyl)[(3S,4S)-3-methoxytetrahydro-2H-pyran-4-yl]amine succinic acid salt. The restriction requirement specifically mentions the process for making ((1R,3S)-3-isopropyl-3-{[3-(trifluoromethyl)-7,8-dihydro-1,6-naphthyridin-6(5H)-yl]carbonyl}cyclopentyl)[(3S,4S)-3-methoxytetrahydro-2H-pyran-4-yl]amine, but does not mention the process for making its succinate salt.

The fact that ((1R,3S)-3-isopropyl-3-{[3-(trifluoromethyl)-7,8-dihydro-1,6-naphthyridin-6(5H)-yl]carbonyl}cyclopentyl)[(3S,4S)-3-methoxytetrahydro-2H-pyran-4-yl]amine succinate is not mentioned appears to be an oversight by the examiner, since Claim 3 is the only claim in the application that claims or discloses its preparation.

### **Election of Species**

The examiner also requested an election of a species. A single process step is elected as a species, where the process step is the hydrogenation of (3S,4S)-N-((1S,4S)-4-isopropyl-4-{[3-(trifluoromethyl)-7,8-dihydro-1,6-naphthyridin-6(5H)-yl]carbonyl}cyclopent-2-en-1-yl)-3-methoxytetrahydro-2H-pyran-4-amine to yield the product ((1R,3S)-3-isopropyl-3-{[3-(trifluoromethyl)-7,8-dihydro-1,6-naphthyridin-6(5H)-yl]carbonyl}cyclopentyl)[(3S,4S)-3-methoxytetrahydro-2H-pyran-4-yl]amine.

This step is Step (4) of Claims 2 and 3, and is also written as new Claim 14 as the only step.

In order to advance prosecution, the non-elected claims are canceled. The individual steps of the elected claims are presented as individual dependent claims in the accompanying claim amendment.